

VIA FACSIMILE NO. (703) 872-9303

AMENDMENT AFTER FINAL
(37 C.F.R. 1.116)
EXPEDITED HANDLING
PATENT
VIK01 P-331

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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JAN 20 2004

Examiner : Christopher S. Kim
Applicants : James G. Retzloff and Scott T. Franson
Serial No. : 09/809,454
Filing Date : March 15, 2001
Group : 3752
For : IMPROVED COVER PLATE FOR CONCEALED SPRINKLER

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

Dear Sir:

01/22/2004 DBREHER 00000002 220190 0980945 PETITION TO WITHDRAW FINALITY

01 FC:1460

130.00 DA

In response to the final Office Action mailed October 17, 2003, having a three-month period of response ending January 17, 2004, Applicant petitions that the finality of the Office Action be withdrawn.

REMARKS

FINALITY OF REJECTION:

Applicants respectfully traverse the finality of the rejection. The Examiner states since "[a]ll claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114", the application is made final.

Applicants respectfully traverse. The MPEP states "[t]he claims of a new application may be finally rejected in the first Office action in those situations where (A) the new application is a continuing application of, or a substitute for, an earlier application, and (B) all claims of the new application (1) are drawn to the same invention claimed in the

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earlier application and (2) would have been properly finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application."

Applicants respectfully note that not all claims would have been properly finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. As noted in the Office Action, Claims 29, 30, 34, 52, and 53 are allowed. Furthermore, as noted in the Response submitted herewith, the claims that have now been rejected are not properly rejected and, therefore, would not have been properly rejected on the grounds and art of record in the next Office action if they would have been entered in the earlier application.

The Commissioner is hereby authorized to charge Deposit Account No. 22-0190 for a Petition fee of \$130.00, if required. Should the Commissioner grant the Petition, Applicant respectfully requests a refund by crediting the deposit account the amount of the fee. A duplicate copy of this Petition is enclosed.

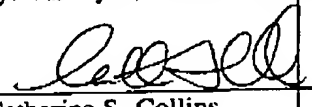
Should the Examiner have any questions or comments, the Examiner is invited to contact the undersigned attorney at (616) 975-5506.

Respectfully submitted,

JAMES G. RETZLOFF and
 SCOTT T. FRANSON

By: Van Dyke, Gardner, Linn & Burkhardt, LLP

January 10, 2004
 Date


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